

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON STATE ADMINISTRATION**

**Call to Order:** By **CHAIRMAN DEBBY BARRETT**, on March 19, 2003 at 9 A.M., in Room 455 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Debby Barrett, Chairman (R)  
Rep. Dee Brown, Vice Chairman (R)  
Rep. Larry Jent, Vice Chairman (D)  
Rep. Norman Ballantyne (D)  
Rep. Arlene Becker (D)  
Rep. Sue Dickenson (D)  
Rep. Carol Gibson (D)  
Rep. Daniel S. Hurwitz (R)  
Rep. Hal Jacobson (D)  
Rep. Larry Lehman (R)  
Rep. Ralph Lenhart (D)  
Rep. Alan Olson (R)  
Rep. Bernie Olson (R)  
Rep. Don Roberts (R)  
Rep. Clarice Schrumpf (R)  
Rep. Frank Smith (D)  
Rep. Pat Wagman (R)  
Rep. Jonathan Windy Boy (D)  
Rep. Cindy Younkin (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Sheri Heffelfinger, Legislative Branch  
Joan Reiman, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: SJ's 23 & 27, SB's 204 & 445,  
3/12/2003

Executive Action: SJ's 23 & 27, SB's 145, 149, 262, 445 - BE  
CONCURRED IN; HB 13 & SB 204 - NO ACTION

**HEARING ON SB 204**

**Sponsor:** SEN. MIKE TAYLOR, SD 37

**Opening Statement by Sponsor:**

SEN. TAYLOR said this extends term limits from eight to twelve years. Since the Legislature only meets every two years, that only allows for four sessions, but it takes a while to learn the process. He said when voters voted for term limits, they thought it was for national representatives, but the courts overturned national limits.

**Proponents' Testimony:**

Nancy Schlepp, Montana Farm Bureau Federation, said she also supported REP. LINDEEN'S bill, but would rather not have any limits.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

SEN. TAYLOR said he would need a House sponsor.  
{Tape: 1; Side: A; Approx. Time Counter: 0 - 4.8}

**HEARING ON SB 445**

**Sponsor:** SEN. GREG BARKUS, SD 39

**Opening Statement by Sponsor:**

SEN. BARKUS said this repeals the transition section of the Districting and Apportionment Commission Plan which assigns holdover Senators to new districts; only one part is repealed.  
{Tape: 1; Side: A; Approx. Time Counter: 4.8 - 7.2}

**Proponents' Testimony:** None

**Opponents' Testimony:**

Scott Crichton, Executive Director, Montana ACLU, said he is not convinced this will fix the whole process. The Constitution

separates the Legislature from playing a key role; they should only assign the Committee and review the Plan, he testified.

**Bob Ream, Montana Democratic Party Chair**, said he opposed the bill. If the bill is passed, he suggests an amendment striking language on lines 17 and 20 which mention partisanship, because he said the

1992 plan was as biased and partisan as the one in 2002.

**{Tape: 1; Side: A; Approx. Time Counter: 7.2 - 12.3}**

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. GIBSON** asked what holdover Senators are. The **sponsor** said they were elected in 2002, and the plan takes effect in 2004. The district they represent in 2004 will be assigned because their district will have been changed. His bill would take 25 holdovers and put them in the spots they represent. In most cases, districts did not change, but some did. Because Senators were elected for four years, they don't have to run again if their district changes. **REP. GIBSON** asked how they would be assigned. He said the process is spelled out in SJ 23. **REP. SMITH** asked how many holdovers do not have districts now. The **sponsor** replied they all have a district, but there are 25 holdovers.

**CHAIRMAN BARRETT** asked Mr. Ream about the 1992 plan, and what the Democratic Party did after it was presented. **Mr. Ream** said they worked hard and made slow gains. **CHAIRMAN BARRETT** asked if they accepted it without legal action. He replied some Senators objected; he wasn't chair then, so he doesn't know what the party did, but no court action was taken.

**{Tape: 1; Side: A; Approx. Time Counter: 12.3 - 20}**

**Closing by Sponsor:**

**SEN. BARKUS** said the 1972 Constitutional Convention did not address holdovers. SB 258, passed this Session, authorized the legislature to assign them. He served on the Districting and Apportionment Commission for six months in SEN. SLITER'S seat, and the lack of interaction was frustrating, he said. OPI staff brought the Democrat's plan forward and ignored four plans staff had produced. All votes were three to two, whereas in 1992, there was compromise and discussion; their chair didn't have to vote to break any ties, he said.

**{Tape: 1; Side: A; Approx. Time Counter: 20 - 22}**

HEARING ON SJ 23

**Sponsor:** SEN. GREG BARKUS, SD 39

**Opening Statement by Sponsor:**

**SEN. BARKUS** said he brought this by request of the House Select Joint Committee on Districting and Apportionment to assign holdover senators using four criteria. They are residency, constituent majority, district character and percentage of support, and desire of Senators where they want to be assigned. He surveyed the Democrats, but they did not return his forms. He explained how these criteria were used to assign Senators.

*{Tape: 1; Side: A; Approx. Time Counter: 22 - 32}*

**Proponents' Testimony:** None

**Opponents' Testimony:**

**Bob Ream, Montana Democratic Party Chair**, said he opposed the bill. He said SB 445 is the mechanism to take holdovers out of the plan, but SB 258 would changed the process to allow the legislature to assign holdovers, always a difficult job, because some are new and some will be term-limited after the current term. He feels they did not follow the criteria. He objected to changes made in different districts. He testified that in rural areas there is a reduction of district.

**Scott Crichton, Executive Director, Montana ACLU**, said it is a complicated process and they should not "tinker" with it because it creates ripple effects. He said the legislature did not meet their own criteria in assigning, and called it gamesmanship. He reflected on the Supreme Court picking Jeannine Pretty on Top unanimously because she knew more than anyone about the process, and they thought Indians would have a stake in the process. This process takes a long time to understand; let it work in the courts, he urged.

*{Tape: 1; Side: A; Approx. Time Counter: 32 - 45}*

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. B. OLSON** asked sponsor about an assignment he had called controversial. Sponsor said he meant that it was flagrant or egregious; **SEN. ANDERSON** ran in SD 43, then was gerrymandered out and given a district 230 miles to the east. **REP. DICKENSON** asked about those whose terms end in 2004. There are no senators

serving who would be affected. She asked why no proponents testified on his two bills. He said as a freshmen, he did not ask anyone to. She asked if citizens have approached him to ask for this. He replied that significant testimony was given over HB 309 from legislators and citizens, and he considered all of that.

**CHAIRMAN BARRETT** noted that two days of hearings held by the Select Joint Committee took testimony from all sides. **REP. YOUNKIN** had a question as to where Big Sky was on his map. He did not recall that.

*{Tape: 1; Side: A; Approx. Time Counter: 45 - 54}*

**Closing by Sponsor:**

**SEN. BARKUS** admitted this is not a perfect science. It doesn't affect Native American districts; they support those districts.

*{Tape: 1; Side: A; Approx. Time Counter: 54 - 57}*

**HEARING ON SJ 27**

**Sponsor:** **SEN. ROYAL JOHNSON, SD 5**

**Opening Statement by Sponsor:**

**SEN. JOHNSON** said this resolution would ask the Trustees to keep the Bair Museum open in Martinsdale. It was funded by an endowment from the Bair family. Attendance has declined, and it is only open four or five months per year. The Russell Museum runs this on contract. It is the only tourist attraction in the county. They could possibly get spin-off tourist business from the Lewis and Clark Bicentennial.

*{Tape: 1; Side: A; Approx. Time Counter: 57 - 66}*

*{Tape: 1; Side: B; Approx. Time Counter: 0 - 2.2}*

**Proponents' Testimony:**

**Arnie Olson, Montana Historical Society (MHS) Director**, said it is important to keep the 26-room mansion and collection intact.

**Jamie Doggett, Meagher County Commissioner, also Representing Wheatland County**, said local public meetings showed huge support. She read a statement prepared by six commissioners from the two counties. The museum combines European culture with Montana history.

**Bill Kennedy, Yellowstone County Commissioner**, said, "Our kids don't understand the Montana history in our own back yard. This will give a boost to the Foundation Board to keep it alive."

**Nancy Schlepp, Ringling**, said it is an emotional issue. The Bair family has donated major funding to hospitals, library and scholarships in the area.

**REP. DAN HURWITZ, HD 40**, said the Bairs put the money up for a long time.

**REP. A. OLSON, HD 8**, said it would be a tragedy to have the collection scattered. He urged advertising to promote it.

**REP. DON ROBERTS, HD 10** said it was an eclectic blend of European antiques and western art.

**Chere Giusto, Montana Preservation Alliance Executive Director**, said the museum is a fabulous experience. There was fanfare when it opened five years ago. The trustees tried to honor the spirit of the Bair sisters, but attendance has declined to 5,000 per year, hardly enough to break even. Museums may not make money, but can serve as an anchor for other businesses which do. This resolution passed unanimously in the Senate, she said.

*{Tape: 1; Side: B; Approx. Time Counter: 2.2 - 18.6}*

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BROWN** asked for the address of the Bair Family Trust, so that people could contact them. **SEN. JOHNSON** said the address is: Bair Family Trust, Mr. Jim Roscoe, Chair, c/o US Bank, Third & 28th, P.O. Box 38678, Billings, Montana 59101.

She asked what could be done to promote it. He said MHS will look at it; they have brochures on their rack at the Museum. Travel Montana and local tourism regions also play a part.

**REP. B. OLSON** asked if sponsor had seen trust documents that spell out the agreement. Sponsor said when the contact was created, the family said they would try it for five years. Their Board said it was not economically feasible. It costs them \$150,000/yr. to run it. Virginia City costs \$400,000/yr. and the state pays for that. **REP. OLSON** asked if the trust document stated that the family wanted the museum to exist. Sponsor said no. **REP. OLSON** asked if there was correspondence that would stand up in court, showing what they wanted.

The sponsor deferred to **Ms. Dogget**, who said those documents are inside the Museum and can't be released to the public. **REP. YOUNKIN** told her trust law says they must meet their fiduciary responsibility as to the intentions of the Trustors. **Ms. Dogget** said the evidence exists, also testimony of local people; the Save the Bair citizen's group has retained an attorney. **REP. YOUNKIN** said litigation could possibly force the issue.

**REP. HURWITZ** asked **Ms. Doggett** if the Bair Company was not exempt from paying county tax. The Trust approached the county and the IRS, but tax-free status was only given to the 20 acres around the house. He asked about previous MSU programs of cattle and sheep ranching and forestry on the ranch. She said a local person said these programs are not going on now.

**REP. WINDY BOY** asked about the tax-free status. **Ms. Doggett** said the Foundation Trust suggested if they got that status, they would put that money back into the Trust, to be granted out to the library, museum and other programs. She doesn't know what would happen if the museum is closed. **SEN. JOHNSON** provided color brochures of the Museum.

**EXHIBIT**(sth58a01)

*{Tape: 1; Side: B; Approx. Time Counter: 18.6 - 32}*

Closing by Sponsor:

The Sponsor closed.

#### EXECUTIVE ACTION ON SJ 27

Motion/Vote: **REP. YOUNKIN** moved SJ 27 BE CONCURRED IN. Motion carried 19-0. **REP. A. OLSON** voted by proxy.

Discussion: **REP. BROWN** wanted the Bair Museum to be discussed on the Floor. **REP. HURWITZ** said he will carry it in the House.  
*{Tape: 1; Side: B; Approx. Time Counter: 32 - 54}*

#### EXECUTIVE ACTION ON SB 445

Motion: **REP. ROBERTS** moved that SB 445 BE CONCURRED IN.

Discussion:

**REP. GIBSON** stated concern that both sides are maneuvering; giving this to the legislature would only make it more partisan. **REP. BECKER** agreed and said the problem should be fixed with the

Commission; if put to the Legislature, the majority will always fix it to their advantage.

**REP. B. OLSON** asked lawyers, **REPS. JENT** and **YOUNKIN**, if the courts should agree with **HB 309**, would it address **SEN. BARKUS'S SB 445** and **SJ 23**. **REP. YOUNKIN** said those don't have to do with reapportionment but with reassigning holdover senators. **REP. JENT** said this bill repeals the part of the Plan filed with the Secretary of State, and has to do with holdovers, since the Plan is being litigated. He said a vote for this repeals the holdover part. **REP. WAGMAN** is for both. He said it's been a Democrat plan from the beginning and was illegal.

**REP. SMITH** called for a point of order, since the courts have not ruled; he wanted to concentrate on the bill. **REP. B. OLSON** and **REP. YOUNKIN** discussed assignment of seats in the Bozeman area. **REP. HURWITZ** asked what **SB 258** dealt with. **CHAIRMAN BARRETT** said it already passed. This bill sets up mechanisms for that. **REP. YOUNKIN** said **SB 258** amended parts of statute authorizing the legislature rather than the Committee to appoint holdover Senators.

**Vote:** Motion carried 10-9 with **REPS. BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, JENT, LENHART, SMITH, and WINDY BOY** voting no by roll call vote. **REP. A. OLSON** voted by proxy.  
{Tape: 1; Side: B; Approx. Time Counter: 36.7 - 52.5}

#### EXECUTIVE ACTION ON HB 13

##### Discussion:

**REP. BROWN** said she had wanted to make **HB 13**, which passed amended on 3/11/03, into a committee bill to look at Montana Highway Patrol salary and retirement. Department of Justice just completed another study, which did not include salary information. She wanted **CHAIRMAN BARRETT** to ask them for a wage survey, which would answer the questions the committee had. She has the current study at her House seat for whomever wants to see it. **CHAIRMAN BARRETT** will request Justice for this study.

#### EXECUTIVE ACTION ON SJ 23

**Motion/Vote:** **REP. WAGMAN** moved that **SJ 23 BE CONCURRED IN**. Motion carried 10-9 with **REPS. BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, JENT, LENHART, SMITH and WINDY BOY** voting no by roll call vote. **REP. A. OLSON** voted by proxy.



*{Tape: 2; Side: A; Approx. Time Counter: 53.5 - 54}*

**EXECUTIVE ACTION ON SB 204**

**Motion:** REP. YOUNKIN moved SB 204 BE CONCURRED IN.

**Discussion:**

She said REP. LINDEEN'S bill amended law to include statewide offices. REP. BECKER asked if the bills are identical. They are not. Ms. Heffelfinger said without coordinating, both bills could go on the ballot which would cause confusion. REP. GIBSON noted that national offices cannot have term limits. REP. JENT said federal courts invalidated that part of law, but the text is still in law the way the people voted on it. He said they are only voting on changes, not on the other, invalidated, language. CHAIRMAN BARRETT asked to have motion withdrawn. Ms. Heffelfinger would like to coordinate the bills; she was not sure if the Senate had acted.

The Motion was withdrawn.

**Discussion:**

Ms. Heffelfinger said if REP. LINDEEN'S bill passed the Senate, they would have to be coordinated. If both bills passed, they would go to conference committees.

*{Tape: 2; Side: A; Approx. Time Counter: 54 - 60}*

**EXECUTIVE ACTION ON SB 149**

**Motion:** REP. GIBSON moved that SB 149 BE CONCURRED IN.

**Motion/Vote:** REP. GIBSON moved that SB 149 BE TABLED. By roll call vote, motion failed 9-10 with REPS. BALLANTYNE, BECKER, DICKENSON, GIBSON, JACOBSON, JENT, LENHART, SMITH and WINDY BOY voting aye. REP. A. OLSON voted by proxy.

**Discussion:**

CHAIRMAN BARRETT said this act revises the districts from which the Re-districting Commission (and others) can be appointed, from four down to two. REP. B. OLSON asked if this is similar to SEN. ESP'S two bills. REP. BROWN replied it is not. REP. LENHART asked Ms. Heffelfinger to explain who Legislative Council is. She explained that they are a bipartisan permanent statutory committee which manages the legislative administrative process.

They hire the Director (Lois Menzies' position), the Environmental Quality Council, Legal Staff, and can request bills. Their main job is the administrative budget for legislative staff.

**REP. WINDY BOY** asked what would happen if the bills now being litigated dealing with redistricting are declared unconstitutional. **CHAIRMAN BARRETT** said they would be put on hold. **REP. BROWN** said Legislative Council is nonpartisan; they have studied the situation. **REP. LEHMAN** asked when the bill was presented, if the reason was to achieve equity in population. It moved Lewis and Clark County from the southwest quarter to the southeast half. He asked how it worked. **REP. B. OLSON** said in the new scheme, it would be less likely that all four were from one district.

**REP. JACOBSON** and **HURWITZ** noted none had either opposed or proposed the bill. **REP. BECKER** asked if they picked alternately, how all four could be from one district. **REP. YOUNKIN** replied they could all be from one Senate District. **REP. BECKER** noted these districts are also used to select for other boards. **REP. GIBSON** asked what the advantage is of this bill. **REP. JACOBSON** explained the existing system of how they pick.

**REP. DICKENSON** did not have a problem with it, but said there is a different mind set in eastern versus western Montana; four districts may allow better representation. **REP. LEHMAN** agreed, but added if there were only two districts, there would be a wider area to select from. **REP. JACOBSON** said no matter how Commission districts are divided, the Legislature would look at partisan rather than regional interests.

**Vote:** Motion carried 19-0. **REP. A. OLSON** voted by proxy.

**Motion/Vote:** **REP. BROWN** moved SB 149 to THE CONSENT CALENDAR. On a voice vote, motion carried 16-3. Voting no were **JENT, GIBSON** and **DICKENSON**. (Though the motion carried, the bill will not be placed on the consent calendar according to House Rules H40-110(b) requiring a unanimous vote on such a motion.)

*{Tape: 1; Side: B; Approx. Time Counter: 61 - 63}*

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 15}*

#### **EXECUTIVE ACTION ON SB 262**

**Motion:** **REP. OLSON** moved that SB 262 BE CONCURRED IN.

**Discussion:**

**CHAIRMAN BARRETT** said the Senate passed this unanimously and the Secretary of State supported it. **REP. BECKER** said the sponsor was to have answered a question of **REP. YOUNKIN'S**. **CHAIRMAN BARRETT** asked **REP. YOUNKIN** if she would talk to sponsor, or if she wanted an amendment. **REP. YOUNKIN** said a floor amendment would be easy; either way she will vote aye.

**Vote:** Motion carried 19-0. **REP. A. OLSON** voted by proxy.  
{Tape: 2; Side: A; Approx. Time Counter: 15 - 19.5}

**EXECUTIVE ACTION ON SB 145**

**Motion:** **REP. DICKENSON** moved that SB 145 BE CONCURRED IN.

**Discussion:**

**REP. BROWN** felt this was ahead of its time; no other states give retirement benefits to Peace Corps volunteers. **REP. YOUNKIN** disagreed; there is no down side, because employees buy their own way in. **REP. BROWN** said it was too broad and expanded. **REP. ROBERTS** agreed it blended a lot of groups; he wanted to confine it to military veterans. **REP. DICKENSON** was for encouraging volunteerism by this motion.

**Vote:** Motion carried 11-8 with **REPS. BARRETT, BROWN, HURWITZ, JENT, LEHMAN, OLSON, ROBERTS** and **WAGMAN** voting no. **REP. A. OLSON** voted by proxy.  
{Tape: 2; Side: A; Approx. Time Counter: 19.5 - 25}

**ADJOURNMENT**

Adjournment: 11:40 A.M.

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REP. DEBBY BARRETT, Chairman

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JOAN REIMAN, Secretary

DB/JR

**EXHIBIT (sth58aad)**